

STATE OF NEW JERSEY  
BUREAU OF SECURITIES  
OFFICE OF ADMINISTRATIVE LAW  
DOCKET NO. BOS-3542-97N

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IN THE MATTER OF: : Administrative Action  
:   
Mark McDermott : CONSENT ORDER  
: UNDER N.J.A.C. 1:1-19.1  
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The Bureau of Securities and Respondent, Mark McDermott, have agreed to settle the issues in this matter, namely, imposition of sanctions in addition to revocation of Respondent's registration as an agent, including the assessment of civil monetary penalties, on the terms set forth in this Consent Order, which terms have, with the consent of Respondent, been reviewed and approved by the Bureau Chief as confirmed by his entering this Consent Order.

The parties also wish to have the settlement terms incorporated in the record of the case. Accordingly, as provided in N.J.A.C. 1:1-19.1, the full terms of the settlement are set forth herein:

This proceeding was instituted in 1997 when the Bureau filed an Administrative Complaint alleging that Respondent, who had been registered with the Bureau as an agent of the broker-dealer, L. C. Wegard & Co., Inc., from October 1991 until on or about November 8, 1995, violated certain provisions of New

regarding the conduct of an agent in connection with the offer, purchase and sale of securities.

Respondent, through counsel, timely filed an Answer denying certain of the allegations, admitting others and asserting certain affirmative defenses. On reviewing the Complaint and Answer, the Bureau determined the matter to be a contested case and, therefore, transmitted it to the Office of Administrative Law for a hearing, where it was assigned to Administrative Law Judge Elinor Reiner.

During the pendency of this matter, Respondent was indicted by a federal grand jury for participating in a scheme to sell speculative, high risk securities by means of fraudulent sales practices. The federal charges were based upon, inter alia, the same acts and practices McDermott was alleged to have engaged in in the Administrative Complaint. This matter was inactive during the pendency of the federal charges.

The federal charges were finally resolved by Respondent entering into an agreement (the "Plea Agreement") with the United States Attorney wherein, among others things, he agreed to enter a guilty plea to certain of the charges against him, which plea was entered on January 14, 1999, during a hearing before the Honorable John W. Bissell, U.S. District Judge, in U.S. v. Mark McDermott, Criminal No. 97-647.

Respondent was represented by an attorney for purposes of responding to the Administrative Complaint and throughout the federal proceeding. Despite being aware of his right to be represented by an attorney in connection with all aspects of this proceeding--including considering and entering into this Consent Order--and despite his having been represented by counsel during the federal proceeding, he has voluntarily chosen not to be so represented in this proceeding after counsel filed the Answer to the Administrative Complaint.

On April 15, 2002 the Staff of the Bureau requested summary decision on the issue of retroactively revoking McDermott's registration as a securities agent in New Jersey and imposing civil and monetary sanctions. On April 25, 2002 Judge Reiner conducted a telephonic conference wherein she initiated settlement discussions regarding the issues raised in the motion for summary decision. Bureau staff and Respondent agreed to enter into settlement discussions subject to the Bureau Chief's approval. On May 23, 2002 and subsequently on June 10, 2002, October 16, 2002 and October 22, 2002, Judge Reiner conducted telephonic conferences regarding settlement which ultimately resulted in this Consent Order.

Respondent is disposed to conclude the matter on the terms and conditions of this Consent Order.



The Bureau is likewise disposed to conclude this matter according to those terms and conditions.

IT IS, THEREFORE, ORDERED, ON THE DAY WRITTEN BELOW, THAT:

In accordance with the findings that Respondent violated the Securities Law as detailed in the Administrative Complaint:

1. He is hereby permanently barred from registration with the Bureau in any capacity.

2. He is hereby permanently enjoined from violating the Securities Law.


3. He is hereby assessed a civil monetary penalty pursuant to §70.1 of the Securities Law of twenty thousand dollars (\$20,000.00), payable in installments, as follows:

a. The first payment of \$10,000 shall be effected by Respondent's causing to be delivered, on November 1, 2002, to the Attorney General of the State of New Jersey, counsel for the Bureau of Securities, in care of Deputy Attorney General Priya Doraswamy, at her office at 124 Halsey Street, Newark, New Jersey. Payment shall be by check made payable to the New Jersey Bureau of Securities.

b. Thereafter, respondent shall pay the remaining sum of \$10,000 in equal monthly installments over a twenty four month period, *except that the last installment payment shall be \$416.88.*

The first monthly installment of ~~\$416.66~~

*PS-LW*



*416.82*



shall be due and payable on or before the twenty fifth day of December, 2002. The monthly payments shall be effected by Respondent's causing to be delivered, on or before the twenty fifth day of each month, to the Attorney General of the State of New Jersey, counsel for the Bureau of Securities, in care of Deputy Attorney General Priya Doraswamy, at her office at 124 Halsey Street, Newark, New Jersey. Payment shall be by check made payable to the New Jersey Bureau of Securities.

d. Final payment shall be submitted on December 25, 2004.

e. Respondent shall have the option of accelerating payment in any given time period.

4. If Respondent fails to make the payment due on November 1, 2002, or on any other assigned date, such failure shall, without more:

(i) render this Consent Order vacated ab initio with respect to the amount of the civil monetary penalty;

(ii) render this proceeding reinstituted before Judge Reiner or her successor, for the purpose of establishing the amount of the civil monetary penalty to be assessed against him, as well as any further submissions Judge Reiner or her successor may require or permit.

5. If the Bureau Chief or his successor shall determine, in his or her sole judgment, prior to November 1,

2002, that Respondent cannot or will not make the payment due, such determination shall, without more, have the same effects specified in paragraph 4, as Respondent's failure to make such payment.


6. As evidenced by the Consent and Certification attached hereto as Exhibit A, which is an integral part of this Consent Order, Respondent consents to the terms and conditions of this Consent Order and agrees that the sanctions imposed herein are: in the public interest, for the protection of investors and consistent with the policy and purposes intended by the Securities Law, as provided in § 67(b) thereof.

7. As provided in N.J.A.C. 1:1-19.1(d), this Consent Order is deemed the final decision in this matter.

8. This Consent Order is to be filed with the Clerk of the Office of Administrative Law and with Judge Reiner, as required by N.J.A.C. 1:1-19.1(2), as soon as practicable after it is entered.

NEW JERSEY BUREAU OF SECURITIES

By:

  
Franklin L. Widmann, Esq., Bureau Chief

Date: October 31, 2002



12/22/02



STATE OF NEW JERSEY  
BUREAU OF SECURITIES  
OFFICE OF ADMINISTRATIVE LAW  
DOCKET NO. BOS 3542-97N

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IN THE MATTER OF: :  
: EXHIBIT "A" TO  
Mark McDermott :  
: CONSENT ORDER  
: UNDER N.J.A.C. 1:1-19.1  
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Administrative Action

CONSENT AND CERTIFICATION

I, Mark McDermott, hereby certify:

(i) that I was represented by an attorney for purposes of responding to the 1997 Administrative Complaint of the Bureau of Securities against me;

(ii) that I have been aware at all times since then of my right to be represented by an attorney in connection with all aspects of this proceeding including considering and entering into the Consent Order to which this Consent and Certification is to be attached;

(iii) that I have, nevertheless, voluntarily chosen not to be so represented after the response to the Administrative Complaint was made;

(iv) that I was provided with a copy of the Consent Order and of this Consent and Certification, by the deputy attorney general representing the Bureau of Securities in this proceeding; that I have had an opportunity to review them and to ask questions about, them; and that I understand their terms and conditions;

(v) that those terms fully, fairly and accurately set forth my agreement with the New Jersey Bureau of Securities;

(vi) that no employee or official of, or person representing, the Bureau of Securities or the State of New Jersey, has made any additional promise or representation to me regarding this agreement;

(vii) that I intend this Consent and Certification to be an integral part of the Consent Order;

(viii) that I will abide by, and take all action necessary or helpful to implement, the terms of the Consent Order and this Consent and Certification;

(ix) that I make these statements unequivocally and without any unstated qualification or reservation.

I am aware that if any of my statements in this Consent and Certification is false, I am subject to punishment.

Certified to this

day of October 25<sup>TH</sup> 2002,

A handwritten signature in dark ink, appearing to read 'Mark McDermott', is written over a horizontal line. The signature is fluid and cursive.

Mark McDermott